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OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Aastuen et al.
Application No. 09/746,933
Filed: December 22, 2000
Attorney Docket No. 49837USA4K.051

:
: DECISION DISMISSING
: PETITION
:
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This is a decision on the petition filed May 7, 2001, in application No. 09/746,933, requesting that application No. 09/312,917 be accorded a filing date of May 17, 1999, and that application No. 60/178,973 be accorded a filing date of January 25, 2000.

The petition is dismissed.

Any request for correction of the filing dates assigned to application Nos. 09/312,917 and 60/178,973 must be by way of separate petitions filed in those applications, not in application No. 09/746,933. As the petition filed May 7, 2001, is directed to application No. 09/746,933, the petition is clearly inappropriate and subject to dismissal.

Applicants should note that the notation "Data inconsistent with PTO records" found on the filing receipt for the present application refers to the fact that, in the application transmittal letter and on page 1 of the specification filed in the present application, applicants erroneously identified the filing date of application No. 09/312,917 as "May 15, 1999." Since Office records already show the filing date of application No. 09/312,917 as May 17, 1999, and the filing date of application No. 60/178,973 as January 25, 2000, the petition is moot and subject to dismissal.

Receipt is acknowledged of a new sheet of drawing containing a Figure 3 on March 1, 2001. The sheet of drawing has been placed in the file for review in due course by the primary examiner. Entry of the new sheet of drawing may be approved, if no new matter is included in the drawing. See MPEP 608.02(h). Obviously, in view of the incorporation by reference of the prior application (see specification, page 1), the drawing of Figure 3 is not new matter if it was a part of the disclosure of the prior application.

Since the petition under 37 CFR 1.182 was filed in application No. 09/746,933 by mistake, no petition fee has been charged.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 22, 2000, including an indication in Office records that 12 sheets of drawings were present on filing.

Telephone inquiries concerning this matter may be directed to Petitions Attorney RC Tang at (703) 308-0763.



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